

In the Matter of Merchant Mariner's Document No. Z-48575 and all other Licenses, Certificates and Documents

Issued to: JOHN G. McHALE

DECISION AND FINAL ORDER OF THE COMMANDANT
UNITED STATES COAST GUARD

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JOHN G. McHAL

This appeal has been taken in accordance with Title 46 United States Code 239(g) and Title 46 Code of Federal Regulations Sec. 137.11-1.

By order dated 26 May 1955, an Examiner of the United States Coast Guard at Seattle, Washington, suspended Merchant Mariner's Document No. Z-48575 issued to John G. McHale upon finding him guilty of misconduct based upon six specifications alleging in substance that while serving as a wiper on board the American SS CATHERINE M. GOULANDRIS under authority of the document above described, between the dates of 1 November 1954 and 25 April 1955, while said vessel was in various Japanese and Korean ports, he was wrongfully absent from his duties on two occasions; he wrongfully directed obscene language towards the Master; he was wrongfully intoxicated and disorderly on two occasions to the extent that confinement was necessary; and he directed obscene and abusive language towards two other members of the crew.

Since Appellant did not appear at the hearing, the proceeding was conducted in absentia. The Examiner entered pleas of "not guilty" to the charge and specifications on behalf of Appellant.

Thereupon, the Investigating Officer made his opening statement. The Investigating Officer then introduced in evidence the testimony of the Master of the CATHERINE M. GOULANDRIS and entries from her Official Logbook pertaining to the alleged offenses. The Master's testimony and the log entries are mutually corroborative as to allegation under consideration.

At the conclusion of the hearing, the Examiner announced his decision and concluded that the charge and six specifications had been proved. He then entered the order suspending Appellant's Merchant Mariner's Document No. Z-48575, and all other licenses, certificates and documents issued to Appellant by the United States Coast Guard or its predecessor authority, for a period of eight months.

Based upon my examination of the record submitted, I hereby make the following

FINDING OF FACT

Between the dates of 1 November 1954 and 25 April 1955, Appellant was serving as a wiper on board the American SS CATHERINE M. GOULANDRIS and acting under authority of his Merchant Mariner's Document No. Z-48575 while the ship was on a foreign voyage.

On 1 and 2 November 1954, Appellant was absent from the ship and failed to perform his duties, both without permission, while the ship was at Miike, Japan.

On 2 March 1955 at about 1830, Appellant was in a drunken condition when he went to the Master's quarters and directed obscene language towards the Master while blocking the entrance to the Master's room. At the request of the Master, the Military Police confined Appellant in a stockade at Pusan, Korea, for his own safety as well as that of other members of the crew. Appellant was released the following day.

On 24 April 1955 while the ship was at Inchon, Korea, Appellant was under the influence of intoxicants. He directed obscene and abusive language towards the First Assistant Engineer and an oiler in a loud and boisterous manner. Appellant was locked in his room for his protection.

Appellant's prior record consists of an admonition in 1952 for directing language towards two ship's officers and a suspension in 1949 for assault and battery upon the Master of the ship.

BASIS OF APPEAL

This appeal been taken from the order*r imposed by the Examiner. Appellant contends that the order is too severe. He denies that he addressed obscene language to the Master on 2 March 1955. On the contrary, Appellant states that he was refused a cash draw by the Master on 2 March and was struck by him. Appellant claims that he was also struck by the First Assistant Engineer on 24 April. Appellant states that there were much more serious are irrelevant to the offenses alleged in the specifications.

OPINION

There is substantial evidence in the record to support the specifications and the order of eight months suspension. Appellant had the opportunity to appear at the hearing and present evidence to refute these charges, by he chose not to be present.

Breaches of discipline by others on the ship do not justify Appellant's misconduct or his failure to carry out the duties and obligations he accepted when he signed the Shipping Articles for the voyage.

In view of the nature of the offenses under consideration and Appellant's prior record of similar abuses of authority on board ship, the order imposed by the Examiner is considered to be lenient rather than excessive.

ORDER

The order of the Examiner dated at Seattle, Washington, on 26 May 1955 is AFFIRMED.

A. C. Richmond
Vice Admiral, United States Coast Guard
Commandant

Dated at Washington, D. C., this 10th day of February, 1956.